



IFM Scottish Branch

Comments and Response to the Aquaculture and Fisheries Bill Consultation

01 March 2012

Introduction

IFM Scottish Branch (IFM) welcome the opportunity to comment on the ideas and proposals contained in this consultation document.

IFM is an international independent professional body representing the interests of fishery management. Scottish Branch exists to promote sound, evidence based fishery management in Scotland, promoting best practice in all areas of management. Unlike some management organisations in Scotland, IFM has no vested proprietorial or economic interest in fisheries, and as such is able to take an objective view based on good science and practice.

Our over-riding interest is that fundamentally, all fisheries must be managed on a sustainable basis, using the best available data and information to underpin management decisions. We are aware that some decisions may, at times, compromise the economic and social benefits of fisheries; however we emphasise our view that for fishery management to continue to progress, the strategy must have at its core the key principle of sustainable management of Scotland's native fish stocks. The economic and social benefits will be a natural consequence of well-managed fisheries.

As a member of the Steering Group of the Freshwater Fisheries Forum, IFM was closely involved in the discussions which have led to many of the ideas contained in the consultation. Whilst our view is that generally this process was invaluable to all the sectors involved, not only in producing these ideas but in fostering a positive relationship between the fishery management sector and Government and agencies, we remain deeply disappointed that the Forum Steering Group was not convened prior to the launch of the consultation to discuss how the ideas generated by the Group would be presented for public consultation.

Aquaculture

IFM is supportive of the proposals relating to aquaculture set out in Sections 1 and 3. IFM is of the view that aquaculture can present significant risks to wild fish populations in certain locations and at certain times. Some of the proposals contained in the above sections will help address some of our concerns.

IFM welcomes proposals to provide legal powers to require or enable:

- participation in farm management agreements;
- revocation of aquaculture consents;
- powers to SEPA to reduce biomass consents;
- Powers to re-set threshold levels for sea lice levels on farms which would trigger action;
- a Scottish technical standard for finfish farm equipment; and
- the taking of samples of fish from fish farms for checking provenance
- Transparency relating to sea lice data is critical - we welcome further action to look at the collection and publication of sea lice data and believe this is a key issue that must be addressed in the legislation which will follow the consultation.

SALMON & FRESHWATER FISHERY MANAGEMENT

IFM support and welcome many of the proposals presented in Section 3 in relation to District Salmon Fishery Boards (DSFB). Consistent with the core principles of IFM outlined in our introduction, we wish to ensure that Scotland's fish and fisheries are managed consistently, transparently and above all, using best available advice, evidence and data. As such, we support the powers proposed to Ministers to help ensure that a consistent, logical and evidence based approach can be undertaken nationally. We also recognise the economic, ecological and social value of other native fish species, and these too should benefit from the same considered, evidence based approach.

Section 1: The sustainable development of aquaculture:

Q1. Do you agree that we should, subject to appropriate safeguards, make it a legal requirement for marine finfish operators to participate in an appropriate Farm Management Agreement with sanctions for failure to do so, or to adhere to the terms of the agreement?

Q2. Do you agree that operators should have primary responsibility for determining the boundaries (and other management arrangements) for Management Areas, but with Scottish Ministers having a fallback power to specify alternative Areas?

Q3. Do you agree that an independent arbitration process should be put in place (with statutory underpinning) to resolve disputes related to Farm Management Agreements?

Q4. How do you think such a system might best be developed?

Q5. Do you agree we ought to review the question of unused consents?

Q6. What do you consider are suitable options to promote use or relinquishment of unused consents?

Q7. Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents?

Q8. Should any such power relate to all or to particular consents (and if the latter, which)?

Q9. What in your view is the most appropriate approach to be taken to the collection and publication of sea-lice data?

Q10. Do you agree that aquaculture businesses ought to be required to provide additional information on fish mortality, movements, disease, treatment and production as set out above?

Q11. What are your views on the timing and frequency of submission of such data?

Q12. Do you agree that Scottish Ministers should have powers to require SEPA to reduce a biomass consent where it appears to them necessary and appropriate – for example to address concerns about fish health and welfare?

Q13. Do you agree we should make enabling legislation giving Scottish Ministers powers to place additional control requirements on well-boats?

Q14. Do you think Scottish Ministers should be given additional powers to place controls on processing plants?

Section 3: Fish farming and wild salmonid interactions:

Q20. Do you agree that there is a case for giving Scottish Ministers powers to determine a lower threshold above which remedial action needs to be taken in appropriate circumstances and potentially as part of a wider suite of protection measures?

Q21. Do you agree we should provide powers for Scottish Ministers to require all finfish farms operating in Scotland to use equipment that conforms to a Scottish Technical Standard? (The technical content of the standard would be defined separately.)

Q22. Do you agree that there should be additional powers for Scottish Ministers to take or require samples of fish from fish farms, for tracing purposes?

Section 4: Salmon and freshwater fisheries management;

General comments:

Q23. Do you agree that we should introduce a specific duty on Boards to act fairly and transparently?

Yes.

All organisations should operate in a fair and transparent manner. The Boards exercise a range of powers and duties conferred by Parliament, and it is proper that these should be exercised in a way that provides confidence to other stakeholders.

Q24. Do you agree that there should be a Code of Good Practice for wild salmon and freshwater fisheries?

Yes.

IFM has been closely involved in the development of a Code of Best Practice for Fisheries Management under a specific workstream within the Strategic Framework for Scottish Freshwater Fisheries. Given our commitment to this project, IFM would naturally see it as a high priority that the Code be published and its use supported. The code encapsulates many of the IFM core principles and therefore we would like to see this finalised and launched in due course.

IFM is also aware of codes prepared by RAFTS and ASFB for member Trusts and Boards. We understand that these focus mainly on governance, practice and legal obligations. Such codes will be helpful in delivering the duty proposed in Q.23 above. Critical to the credibility of these codes will be a rigorous, clear and transparent audit process to ensure compliance.

IFM supports the recommendations proposed for the operation of DSFBs. Good, consistent practice and governance across the network of Boards will ultimately ensure that a more considered, even and evidence-based culture can be introduced into the decision making process at local fishery district level.

Q25. If yes, do you think such a Code of Good Practice should be statutory or non-statutory?

In principle, IFM believe that above all any code must be credible and taken seriously by the relevant industry group. An option should exist to make compliance statutory, should that be required. This therefore means that a meaningful audit/monitoring process must be developed to ensure compliance. A review of this would then allow an assessment as to whether the code would require a legal backstop.

Q26. Do you agree that Scottish Ministers should have powers to introduce a statutory system of carcass tagging for wild Atlantic salmon and sea trout?

Yes.

Carcass tagging is a useful tool to reduce the possibility of illegally caught fish being marketed. Such a measure would complement the ban on sale of rod caught salmon and would reduce further other avenues to dispose of illegally caught fish.

IFM specifically represents the enforcement network of bailiffs in Scotland, and such a scheme would considerably enhance the function of this network's ability to counter illegal activity.

We are unclear about the scope of any system proposed – would it relate to all salmon or sea trout caught, irrespective of method?

We note that the existing ban on the sale of rod caught fish is not accompanied by a complementary ban on the purchase of rod caught fish. Whilst it is an offence to purchase

salmon which are believed to be unlawfully taken, for clarity, we suggest that a separate offence should be introduced to prohibit specifically the purchase of rod caught fish, and indeed any untagged fish under a tagging scheme.

Q27. Do you agree that Scottish Ministers should have powers to take or require fish and/or samples for genetic or other analysis?

Yes.

Consistent with the science-based approach advocated by IFM, genetic analysis is a valuable, reliable and recognised tool for fisheries management, and through appropriate use and interpretation, can provide sound evidence on which to inform good management decisions tailored to individual catchments, rivers and fisheries. We are aware of the existing co-ordinated atlantic salmon genetic sampling programme being carried out in Scotland, and we believe that such work will be a key foundation for future management of Scotland's salmon stocks.

Q28. Do you agree that Scottish Ministers should have powers to initiate changes to Salmon District Annual Close Time Orders?

Yes, but only where good evidence exists to support any change. In the main, local fishery managers are best equipped with the necessary expertise, local knowledge and understanding of their fisheries to consider changes such as these. However we do see some value in the existence and potential use of such a power, where it can be demonstrated that there has been a failure of local management (either in a district with a DSFB or without) and where a decision, or lack of a decision, has, or will have negative impact on the fish stock or fishery.

Q29. Do you agree that Scottish Ministers should be able to promote combined salmon conservation measures at their own hand?

Yes, but, but as above, only where good evidence exists to support any change. In the main, local fishery managers are best equipped with the necessary expertise, local knowledge and understanding of their fisheries to promote conservation measures. However we do see some value in the existence and potential use of such a power, where it can be demonstrated that there has been a failure of local management (either in a district with a DSFB or without) and where a decision, or lack of a decision, has, or will have negative impact on the fish stock or fishery.

Q30. Do you agree that Scottish Ministers should be able to attach conditions, such as monitoring and reporting requirements, to statutory conservation measures?

Yes.

Monitoring and evaluation of fishery management actions is fundamentally central to the concept of evidence based fishery management. Without a controlled monitoring exercise, and subsequent reporting of outcomes, the efficacy of any management action is unmeasurable, and by definition, worthless to a fishery manager. Such requirements and conditions should be reasonable and achievable within existing resources. If they place an unreasonable demand on this, then support and additional resources should be provided by those imposing the monitoring and reporting requirements.

Q31. Do you agree that we should introduce statutory provisions related to mediation and dispute resolution, to help resolve disputes around salmon conservation, management and any related compensation measures?

Yes.

IFM supports the principle of a mediation process, where intractable and fundamental problems arise around regulatory proposals. Whilst these are not common, an impartial, trusted and transparent resolution process might provide a degree of confidence in the decision making process for all concerned. We are aware that regulatory measures are often only introduced where the voluntary approach has failed. Therefore, by definition, the introduction of legal proposals will always be against some background of resistance. Such a process should only be used in sparing circumstances, in the most difficult circumstances, and should not be used to defer routine decision-making by Ministers on most conservation regulation applications.

Improved Information on Fish and Fisheries:

Again, this is central to the principle of evidence-based fishery management. Good decisions require use of the best available information. However, in the absence of good information, this should not be used to defer or avoid making important decisions, where a precautionary approach can be adopted. IFM support in general the suite of proposals below designed to ensure the collection of appropriate data which will assist, in overall terms, better fishery management in Scotland.

Q32. Do you agree that there should be a legal requirement to provide comprehensive effort data for rod fisheries?

Yes, however this will require careful and in-depth investigation as to how meaningful data could be collected. Effort data is notoriously difficult to quantify, and such a proposal will need careful evaluation in terms of how the data would be collected, how units would be defined and above all, how the information would be interpreted and used to make meaningful decisions at local level.

Q33. What additional information on the fish or fisheries should proprietors and/or Boards be required to collect and provide; and should this be provided routinely and/or in specific circumstances?

Useful information might include:

- Information on hatchery operations (both DSFBs and Government data)
- Decisions on fish movement and introductions (both DSFBs and Government data)
- Development of an integrated national dataset on the above would be helpful
- Information on monitoring actions appropriate to the above

Q34. Should Scottish Ministers have powers to require Boards and/or proprietors or their tenants to investigate and report on salmon and sea trout and the fisheries in their district?

This is largely a matter for the Boards and ASFB to consider, but we do see some value in such a power, so long as it was used appropriately and that sufficient additional resources

would be provided, if required, to enable such investigations to be carried out and reported on. We believe that the above question is very vague, and it would be useful to have further clarity on what types of issue it is intended to address.

Q35. Do you agree that Scottish Ministers should have powers to recall, restrict or exclude the jurisdiction of Boards in relation to fish introductions, in certain circumstances?

IFM wish to see an evidence-based approach to fish introductions across Scotland, and in particular a general presumption against such action unless it can be demonstrated that it will achieve the desired goal. We strongly believe that all stocking actions, whether consented by DSFBs or under the direction of Scottish Ministers via MSS, should be consistent with this principle. For DSFBs, We do believe that such a power would be useful, however, where it can be demonstrated that a DSFB is not taking informed management decisions in relation to fish introductions. Then we would support the option of Ministers having powers to recall, restrict or exclude DSFB jurisdiction in this area. IFM recognises that the quality of decisions relating to hatchery operation and stocking practice in the recent past has been highly variable.

We also recognise that current practice is improving, but at the same time remain concerned about the existence of some current restocking programmes, which may actually be damaging in their effect on native populations. Such scenarios exist in areas governed by both DSFBs and MSS.

Q36. If so, why and in what circumstances?

IFM believes that intervention would be justified on the following scenarios:

- If a DSFB was not commissioning or adopting scientific advice on introductions;
- If there was no clear and justified conservation or management rationale for the action;
- If there was no clear and rigorous evaluation of the action to measure the success or otherwise of the project;
- If basic and legal consenting procedures as required by the Act were not being complied with.

In respect of all regulators (DSFBs and MSS) we believe it is important that a credible, rigorous and transparent consideration process should be place. For DSFBs many consent their own hatchery operation and this, more than ever, makes it critical that all process are, and are seen to be, fair, impartial and subject to scrutiny.

All fish introductions decisions, whether consented by DSFBs or MSS, should:

- Be informed by sound scientific advice.
- Be recorded and available for inspection;
- Have a clear and sensible management objective and aim and be subject to a rigorous evaluation programme to monitor results

Section 5: Modernising enforcement provisions:

Q37. Do you agree that strict liability criteria should apply – where they are capable of being applied – for offences related to Marine Licensing requirements insofar as they apply to aquaculture operations and, potentially, in other situations?

Section 6: Paying for Progress:

Q46. Do you agree that there should be enabling provisions for Scottish Ministers to provide, through secondary legislation, for both direct and more generic charges for services/benefits arising from public sector services and activities?

Q47. If you do not agree that there should be charging provisions, how do you envisage ongoing and new work to assist in management and development of the aquaculture and fisheries sectors should be resourced?

Q48. If no new way of resourcing such activity can be found, what activities do you suggest might be stopped to free up necessary funds?

Section 7: Any other issues